

REFERENCE TITLE: **critical infrastructure information; confidentiality**

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2495

Introduced by
Representatives Nelson: Yarbrough

AN ACT

**AMENDING SECTION 39-126, ARIZONA REVISED STATUTES; RELATING TO CRITICAL
INFRASTRUCTURE INFORMATION.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 39-126, Arizona Revised Statutes, is amended to
3 read:

4 39-126. Critical infrastructure information; confidentiality;
5 violation; classification; definitions

6 A. Nothing in this chapter requires the disclosure of:

7 1. A risk assessment that is performed by or on behalf of a federal
8 agency to evaluate critical energy, water or telecommunications
9 infrastructure to determine its vulnerability to sabotage or attack.

10 2. INFORMATION RELATING TO CRITICAL INFRASTRUCTURE THAT IS CREATED BY
11 A PUBLIC BODY OR THAT IS IN THE POSSESSION OF A PUBLIC BODY WITH THE
12 AUTHORITY TO RECEIVE THE INFORMATION.

13 3. INFORMATION RELATING TO THE SECURITY AND VULNERABILITY OF CRITICAL
14 INFRASTRUCTURE RESOURCES THAT IS CREATED BY A PUBLIC BODY OR THAT IS IN THE
15 POSSESSION OF A PUBLIC BODY WITH THE AUTHORITY TO RECEIVE THE INFORMATION.

16 B. FOR THE PURPOSES OF SUBSECTION A, PARAGRAPHS 2 AND 3 OF THIS
17 SECTION, INFORMATION RELATING TO CRITICAL INFRASTRUCTURE AND THE SECURITY AND
18 VULNERABILITY OF CRITICAL INFRASTRUCTURE RESOURCES IS CONFIDENTIAL AND IS NOT
19 A PUBLIC RECORD PURSUANT TO THIS CHAPTER.

20 C. A PUBLIC BODY SHALL CLASSIFY AS CONFIDENTIAL AND SHALL NOT PUBLICLY
21 DISCLOSE ANY CRITICAL INFRASTRUCTURE INFORMATION OR INFORMATION RELATING TO
22 CRITICAL INFRASTRUCTURE RESOURCES IF THE PERSON OR ENTITY THAT PROVIDES THE
23 INFORMATION AGREES TO PROVIDE THE INFORMATION ONLY ON THE EXPRESS CONDITION
24 THAT THE INFORMATION REMAIN CONFIDENTIAL.

25 D. WITHOUT THE WRITTEN CONSENT OF THE PERSON OR ENTITY SUBMITTING THE
26 INFORMATION, CRITICAL INFRASTRUCTURE INFORMATION OR INFORMATION RELATING TO
27 CRITICAL INFRASTRUCTURE RESOURCES SHALL NOT BE USED DIRECTLY OR INDIRECTLY BY
28 THE PUBLIC BODY, OR ANY THIRD PARTY, IN ANY CIVIL OR CRIMINAL ACTION ARISING
29 UNDER THE LAWS OF THIS STATE IF THAT INFORMATION IS SUBMITTED IN GOOD FAITH.
30 WITHOUT THE WRITTEN CONSENT OF THE PERSON OR ENTITY SUBMITTING THE
31 INFORMATION, CRITICAL INFRASTRUCTURE INFORMATION OR INFORMATION RELATING TO
32 CRITICAL INFRASTRUCTURE RESOURCES SHALL NOT BE USED DIRECTLY OR INDIRECTLY BY
33 THE PUBLIC BODY FOR PURPOSES OTHER THAN THE PURPOSE STATED IN THE ORIGINAL
34 REQUEST. A VOLUNTARY SUBMITTAL OF CRITICAL INFRASTRUCTURE INFORMATION IS NOT
35 A WAIVER OF ANY APPLICABLE PRIVILEGE OR PROTECTION PROVIDED UNDER THE LAWS OF
36 THIS STATE.

37 E. IF AN INDIVIDUAL REQUESTS DISCLOSURE OF CRITICAL INFRASTRUCTURE
38 INFORMATION OR INFORMATION RELATING TO CRITICAL INFRASTRUCTURE RESOURCES, A
39 PUBLIC BODY MAY ONLY DISCLOSE INFORMATION REPORTED PURSUANT TO THIS SECTION
40 IF THE REQUESTING PARTY OBTAINS A COURT ORDER AUTHORIZING THE DISCLOSURE.
41 THE PUBLIC BODY SHALL NOTIFY THE PERSON OR ENTITY THAT SUBMITTED THE
42 INFORMATION AND THE PERSON OR ENTITY SHALL BECOME A PARTY TO THE ACTION. A
43 COURT SHALL CONDUCT ANY HEARING ON THE REQUEST IN CAMERA AND ANY ORDER
44 RESULTING FROM THE HEARING MAY BE APPEALED AS PROVIDED BY LAW.

1 F. ANY PERSON WHO IS EMPLOYED BY A PUBLIC BODY SHALL NOT KNOWINGLY
2 DISCLOSE INFORMATION THAT IS CONFIDENTIAL PURSUANT TO THIS SECTION WITHOUT
3 THE WRITTEN AUTHORIZATION OF THE PERSON OR ENTITY THAT ORIGINALLY SUBMITTED
4 THE INFORMATION.

5 G. AT THE CONCLUSION OF AN EXECUTIVE SESSION HELD BY A PUBLIC BODY FOR
6 THE PURPOSE OF CONSIDERING INFORMATION OR TESTIMONY THAT IS CONFIDENTIAL
7 PURSUANT TO SUBSECTION C OF THIS SECTION, THE PUBLIC BODY SHALL TAKE
8 IMMEDIATE STEPS TO PRESERVE THE INFORMATION AS CONFIDENTIAL OR SHALL RETURN
9 THE CONFIDENTIAL INFORMATION TO THE OWNER OR SPECIFICALLY DESIGNATED
10 REPRESENTATIVE.

11 H. DISCLOSURE OF INFORMATION THAT IS CONFIDENTIAL PURSUANT TO THIS
12 SECTION IS A CLASS 1 MISDEMEANOR, UNLESS THE VIOLATION IS COMMITTED WITH THE
13 INTENT TO CAUSE HARM TO THE CRITICAL INFRASTRUCTURE OR CRITICAL
14 INFRASTRUCTURE RESOURCE, IN WHICH CASE THE VIOLATION IS A CLASS 6 FELONY.

15 I. FOR THE PURPOSES OF THIS SECTION:

16 1. "CRITICAL INFRASTRUCTURE" MEANS CRITICAL SYSTEMS AND ASSETS,
17 WHETHER PHYSICAL OR VIRTUAL, THAT ARE SO VITAL TO THIS STATE AND THE UNITED
18 STATES THAT THE INCAPACITY OR DESTRUCTION OF THOSE SYSTEMS AND ASSETS WOULD
19 HAVE A DEBILITATING IMPACT ON SECURITY, NATIONAL OR STATE ECONOMIC SECURITY
20 OR NATIONAL OR STATE PUBLIC HEALTH OR SAFETY.

21 2. "CRITICAL INFRASTRUCTURE INFORMATION" MEANS INFORMATION THAT IS NOT
22 CUSTOMARILY IN THE PUBLIC DOMAIN AND THAT IS RELATED TO THE SECURITY OF
23 CRITICAL INFRASTRUCTURE OR PROTECTED SYSTEMS AND INCLUDES EMERGENCY RESPONSE
24 PLANS AND PLANS FOR INFRASTRUCTURE MODIFICATIONS THAT MAY ENHANCE SECURITY.

25 3. "CRITICAL INFRASTRUCTURE RESOURCE" HAS THE SAME MEANING PRESCRIBED
26 IN SECTION 13-2301.